

Docket No.: 3350-05E
View No.: Ebill-E

Sector
PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
KITCHEN, et al. : Art Unit: 2162
Serial No: 09/867,587 : Examiner: R. Alvarez
Filed: May 31, 2001 :
For: BILL AVAILABILITY NOTIFICATION AND BILLING INFORMATION REQUEST

RESPONSE TO NOTICE TO FILE
MISSING PARTS OF APPLICATION

Honorable Assistant
Commissioner
for Patents
Washington, DC 20231

<p>I hereby certify that this paper or fee is being deposited with the U.S. Postal Service as First Class Mail addressed to Assistant Commissioner for Patents, Washington, D.C. 20231</p> <p>on <u>July 13, 2001</u></p> <p>Signature <u>[Signature]</u></p>

Sir:

In response to the notice of Missing Parts of Application dated June 26, 2001, submitted herewith are the following documents for filing in the above-referenced application:

1. Copy of the Notice to File Missing Parts of Application.
2. Copy of a Petition under 37 CFR 47(a), including supporting Declarations of Sharon Hand (including Exhibits A-D) and Sheila Foxx, as filed with the United States Patent and Trademark Office on November 25, 1998 in the parent application, S.N. 09/034,561.

3. Copy of the first page of the Petition under 37 CFR 47(a), as filed with the United States Patent and Trademark Office on November 25, 1998, showing stamped receipt by the Office of Initial Patent Examination on November 30, 1998.

4. Copy of a Supplement to Petition under 37 CFR 47(a) filed with the United States Patent and Trademark Office on December 17, 1998 in the parent application.

5. Copy of the contents page of the file wrapper of the parent application showing entry of the Petition under 37 CFR 47(a) on November 30, 1998.

6. Non-small Entity fee of \$130.00.

7. Substitute drawings in compliance with 37 CFR 1.84.

The present application is a Rule 53(b) continuation of parent application serial number 09/034,561. A copy of the executed Declaration and Power of Attorney from the parent application was submitted when this present continuation application was filed.

As set forth in the Declaration and Power of Attorney, the inventors of the parent application, as well as this continuation application, are William Kitchen, Ginger Moses, Ralph Au, Clarence Bringardner, and Kenneth Bradley. The Declaration was executed by named inventors William Kitchen, Ginger Moses, and Ralph Au. Clarence Bringardner and Kenneth Bradley did not execute the Declaration.

In accordance with 37 CFR 42(a), a Petition requesting the Commissioner to accept and proceed with the examination of the parent application notwithstanding the unavailability or refusal of Mr. Bringardner and Mr. Bradley to execute the parent application was filed with the United States Patent and Trademark Office on November 25, 1998. As evidenced by a date stamp on the first page of the Petition included in the file wrapper of the parent application and the contents page of the file wrapper of the parent application, the Petition was received by the Office on November 30, 1998. Subsequent to receipt of the Petition, the application was passed to the Examining group as requested in the Petition. A first Office Action issued January 20, 2000. On March 12, 2001 the Office issued a Notice of Allowability and Issue Fee Transmittal in the parent application. However, no decision granting the Petition was received by the undersigned. Furthermore, the file wrapper

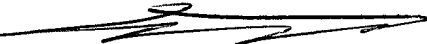
of the parent application does not contain a documented decision granting the Petition. Presumably, as the parent application passed to the Examining group and subsequently to issuance, the Petition was granted.

The Office issued a Notice to File Missing Parts in the present application on April 4, 2001, citing the lack of signature of Mr. Bringardner and Mr. Bradley. At the suggestion of Mr. Douglas Woods ((703) 308-6918) of the Office of Petitions, to comply with 37 CFR 1.63(d)(3), included herein is a complete copy of the Petition under 37 CFR 42(a) as filed in the parent application on November 25, 1998, including supporting Declarations submitted with the Petition, a Supplement to the Petition filed in the parent application on December 17, 1998, a copy of the first page of the Petition bearing the date stamp of the Office of Initial Patent Examination, as well as a copy of the contents page of the file wrapper of the parent application.

Accordingly, it is respectfully requested that the official filing receipt now be issued. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed local telephone number, in order to expedite resolution of any remaining issues and further to expedite passage of the application to issue, if any further comments, questions or suggestions arise in connection with the application.

A check in the amount of \$130.00 to cover the fee as listed above is enclosed. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 12-0429 and please credit any excess fees to such deposit account.

Respectfully submitted,
Lalos & Keegan


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UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/867,587	05/31/2001	Bill Kitchen	3350-05E

CONFIRMATION NO. 8050

FORMALITIES LETTER



OC000000006228867

Alfred A. Stadnicki
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Washington, DC 20036

Date Mailed: 06/26/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

A copy of this notice MUST be returned with the reply.